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IN THE

Supreme Court of the United States

HANNA STEEL CORP., *et al.*,

Petitioners,

v.

KATIE LOWERY, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

SUPPLEMENTAL BRIEF FOR PETITIONERS

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STATEMENT PURSUANT TO RULE 29.6

Petitioners' corporate disclosure statement was set forth at pages *iii-iv* of their Petition for a Writ of Certiorari, and there are no amendments to that statement.

Petitioners have predicted that the Eleventh Circuit's decision below will make diversity removal a dead letter. *See* Pet. at 5, 27. Respondents claim that prediction is "unfounded." BIO at 13. Since Petitioners filed their reply brief, however, district courts in Alabama and Georgia have issued remand orders that eliminate any doubt about how far the Eleventh Circuit's decision deviates from removal practice in other circuits.

1. On May 22, 2008, the Middle District of Alabama remanded a wrongful death case arising from an automobile accident because the complaint did not contain a specific damage request. *Siniard v. Ford Motor Co.*, 2008 WL 2132078 (M.D. Ala. May 22, 2008). Although the decedent's estate sought an unlimited amount of compensatory and punitive damages for the wrongful death, the district court followed *Lowery*'s "significant clarification" of the law and rejected Ford's reliance on proof that Alabama courts routinely enter wrongful death verdicts in excess of $75,000 in products liability cases. *Id.* at *1 (citing *Lowery*, 483 F.3d at 1187).

2. Similarly, on May 20, 2008, the Middle District of Georgia remanded a defamation case despite the defendants' evidence of Georgia cases upholding punitive damage awards well over $75,000. *Buescher v. Falcon Mezzanine Partners*, 2008 WL 2130155 (M.D. Ga. May 20, 2008). Because the plaintiff "did not provide this evidence to [d]efendants," the district court held "it is not the type of evidence courts are to consider." *Id.* at *4 (citing *Lowery*, 483 F.3d at 1215).

These two cases illustrate how the Eleventh Circuit's decision has fixed the scales against removal. The fact that district courts within the Eleventh Circuit are issuing such decisions every week (*see* Reply at 10 n.1) only heightens the importance of the questions presented. Further percolation will only make matters worse. And the Court may not have another vehicle to review the Eleventh Circuit's treatment of these issues. The district court decisions in *Siniard* and *Buescher*, for instance, cannot be appealed due to 28 U.S.C. § 1447(d). If this Court does not review the Eleventh Circuit's decision now, district courts in Alabama, Florida, and Georgia will continue to issue unreviewable remand orders whenever the plaintiff omits a sum certain from the complaint—no matter how catastrophic the damages.

The decision below is the source of the problem. The questions it raises are critically important to defendants who seek to invoke their statutory right of removal with each passing day. This case provides the Court an ideal—perhaps the *only*—vehicle to answer these questions. Certiorari should be granted.

Respectfully submitted,

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